BOMBAY ACT No. I OF 1880.

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SCHEDULE.

BOMBAY ACT No. I OF 1880[1].

[*The 6th May, 1880.*]

An Act to amend the law relating to the settlement of Villages held by Khots.

Preamble. WHEREAS it is expedient to make special provision for the settlement and revenue-administration of villages in the Ratnágiri District which are held by khots; It is enacted as follows:—

PART I.

PRELIMINARY.

Short title. 1. This Act may be cited as the Khotí Settlement Act, 1880.

Extent. It extends to all villages held by khots in the district of Ratnágiri.

The Governor in Council may, from time to time, by notification in the *Bombay Government Gazette*, extend all or any of its provisions to any such village in the Kolába District.

Repeal of sections 37 and 38 of Bombay Act I of 1865. 2. Sections 37 and 38 of the[2] Bombay Survey and Settlement Act, 1865, are repealed so far as they apply to any village to which this Act extends, or may hereafter be extended: Bom. Act I of 1865.

Provided that the said repeal shall not affect the validity of any settlement already made under the provisions of the said sections and which has been guaranteed by the Government for a fixed period under section 28 of the said Act.

Interpretation-clause. 3. In this Act, unless there be something repugnant in the subject or context,—

(*1*) "village" means a village, or a portion or share of a village, to the extent to which a khot has any right or interest in such village, or portion or share thereof:

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1879, Pt. V, p. 160; for Report of the Select Committee, *see ibid*, p. 166; and for Proceedings in Council, *see ibid*, p. 163 and *ibid*, 1880, Pt. V, p. 5.

[2] *Supra*, p. 451.

(*2*) "khot" includes—

(*a*) a mortgagee lawfully in possession of a khotkí,

(*b*) all co-sharers in a khotkí :

(*3*) "khotkí" means the aggregate of the rights and interests vested in a khot as such :

(*4*) "jámá" means land-revenue payable by a khot to Government :

(*5*) "privileged occupant" means—

(*a*) a dhárekari, or

(*b*) a quasi-dhárekari, or

(*c*) an occupancy-tenant :

(*6*) "dhárekari" means a land-holder who holds on the "dhára" tenure :

(*7*) "quasi-dhárekarí" means a land-holder of any of the denominations named in the first column of the schedule :[1] * * *

(*8*) "occupancy-tenant" means a holder of khotí land who has a right of occupancy in such land :

(*9*) "dhára land" means land held by a dhárekari, or by a quasi-dhárekari :

(*10*) "khotí land" means land in respect of which a khot has, as such, any right or interest and which is not dhára land :

[2] (*11*) "Recording-officer" means any officer duly empowered to make or amend entries in the settlement-register or other settlement records by or under section 108 of the [3] Bombay Land-revenue Code, 1879, or Part III of this Act :

Bom. Act V of 1879.

(*12*) any word or expression which is defined in the [3] Bombay Land-revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code.

Bom. Act V of 1879.

Expressions defined in the Bombay Land-Revenue Code.

PART II.

General Provisions relating to Khots and their inferior holders.

Khots.

4. Khots shall continue to hold their villages conditionally on the paymen of the amounts due on account of the jámá of the same, according

Continuance of khots' villages to be

[1] The words "hereto annexed" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act. 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay Act 1 of 1904), Vol. IV of this Code.

[2] Clause (*11*) was inserted by the Khotí Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 2, Vol. IV of this Code, in the place of the former clause (*11*) which was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

The former clause (*11*) was as follows :—

"'part' and 'section' mean respectively a part and section of this Act."

[3] *Supra*, p. 631.

subject to payment of jámá.

to the provisions of this Act and of the [1] Bombay Land-revenue Code, 1879, and of any rules for the time being in force made under this Act or under the said Code, and subject to the fulfilment of any other term or liability lawfully annexed or appertaining to their tenure. Bom. Act V of 1879.

Inferior Holders.

What holders are to be deemed occupancy-tenants.

5. Every holder of khoti land who has actually occupied or cultivated the same continuously from any time previous to the commencement of the revenue year 1845-46 has a right of occupancy in the land so occupied or cultivated.

The occupation or cultivating of the father or other person from whom the present holder inherits, and in the case of occupancy-rights which are transferable otherwise than by inheritance, the occupation or cultivating of any former holder through whom the present holder claims, or of any mortgagee or lessee of the present or any former holder, shall be deemed to be the occupation or cultivating of the present holder within the meaning of this section;

and, in the case of land which is periodically fallow, years of fallow shall be reckoned as years of occupation or cultivation for the purpose of this section.

Right of occupancy when land has been wrongfully transferred.

6. If an occupancy-right which is not transferable otherwise than by inheritance, has been so transferred, the actual holder of the land shall be deemed to be the tenant thereof, and if he, or his father, or other person from whom he inherits, has occupied or cultivated the land continuously from any time previous to the commencement of the revenue year 1845-46, he shall have a right of occupancy therein:

Provided that, if the actual holder is in possession of the land as mortgagee, or lessee merely, his occupation or cultivating shall for the purpose of this section and of section 5 be deemed to be the occupation or cultivating of the mortgagor or lessor, and that, if such mortgagor or lessor has a right of occupancy in the land, such right shall, notwithstanding the provisions of section 9, be subject to the mortgage lien or lease of the said mortgagee or lessee until the same is duly discharged or determined.

Continuance of privileged occupants' tenures.

7. Privileged occupants shall continue to hold their lands conditionall on the payment of the rent from time to time lawfully due by them to the khot or other person entitled to receive payment of the same.

[1] *Supra*, p. 631.

Ordinary tenants.

8. Tenants other than occupancy-tenants shall continue to hold their lands subject to such terms and conditions as may have been, or may hereafter be, agreed upon between the khot and themselves, and in the absence of any such specific agreement shall be held to be yearly tenants liable to pay rent to the khot at the same rates as are paid by occupancy-tenants in the village in which the lands held by them are situate: Provided that the said rates shall not exceed the maxima prescribed in section 33, clause (*c*).

Transfer, etc., of Rights.

What rights are transferable.

9. The rights of khots, dhárekaris and quasi-dhárekaris shall be heritable and transferable.

Occupancy-tenants' rights shall be heritable, but shall not be otherwise transferable, unless in any case the tenant proves that such right of transfer has been exercised in respect of the land in his occupancy, independently of the consent of the khot, at some time within the period of thirty years next previous to the commencement of the revenue year 1865-66, or, unless in the case of an occupancy-right conferred by the khot under section 11, the khot grants such right of transfer of the same.

Resignation, lapse or forfeiture of privileged occupants' lands.

10. If a privileged occupant resign the land or any portion of the land in his holding, or if any such occupant's land lapse for failure of heirs, or other persons entitled thereto, or is forfeited on the occupant's failing to pay the rent due in respect thereof, the land so resigned, lapsed or forfeited, shall be at the disposal of the khot as khotí land free of all encumbrances, other than liens or charges created or existing in favour of Government.

But it shall not be competent to a privileged occupant at any time to resign a portion only of his entire holding except with the consent of the khot; and no privileged occupant shall be deemed to have forfeited his land on failure to pay rent unless such forfeiture is certified by the Collector.

Grant of Privileged Occupant's Rights by Khots.

Privileged occupant's rights may be conferred by khots.

11. It shall be competent to the khot at any time to confer on any tenant the right of a privileged occupant of any class, or on a privileged occupant of one class, the right of a privileged occupant of a superior class:

Provided that the grant by the khot of any such right shall not affect any right of Government in respect of the land which is the subject of such grant or of the trees or other forest-produce of such land.

Record of grant.

12. On receipt of a written application from the khot, in such form as shall be prescribed in rules to be framed under section 40, the Collector shall

cause an entry to be made, in such record as may from time to time be prescribed by Government in this behalf, of any right conferred by the khot under the last preceding section, and an entry thus duly made and authenticated by the Collector's signature shall be conclusive proof of the facts therein recorded.

Nothing in this section or in section 11 shall be deemed to apply to a mortgagee lawfully in possession of a khotkí unless such mortgagee shall have been expressly authorized by his mortgagor to exercise the powers conferred by the said sections.

Recovery of Rents.

13. [*Commutation-rates for rent payable in kind.*] *Rep.*[1] *Bom. Act III of 1904, s. 3.*

Rent of land which an occupancy-tenant neglects to cultivate.

14. If an occupancy-tenant neglect to raise a crop on any land in his holding on account of the rent of which he would, if he raised a crop, be liable to pay the khot a share of the produce, the khot shall be entitled to receive from him the same amount of rent as if he had raised a crop.

In the event of a dispute as to the amount of rent due under this section, such amount shall be determined by the Collector, but no such rent shall be recoverable by the khot if the tenant shall satisfy the Collector that in the year for which such rent is claimed it was proper, having regard to the custom of the village in respect of lands of the same class, or to the nature and requirements of the soil, that the land should be left fallow.

Accounts.

Khots to keep accounts;

15. The khot shall—

(*a*) keep, or cause to be kept, such accounts as may from time to time be required by the Collector under the orders of Government; and

and to produce them when required;

(*b*) produce such accounts, whenever required, to the Collector or to any officer subordinate to the Collector not lower in rank than a mahálkari, and

and to give written receipts.

(*c*) give a written receipt for every payment of rent or land-revenue made to him whether by a privileged occupant or tenant, or by a co-sharer in his khotkí.

Penalty.

For disobedience of any order duly made under this section, or for any infraction of the provisions of this section, the khot shall, on conviction before the Collector or the Assistant or Deputy Collector in charge of the táluka in which such khot's village is situate, be liable to a fine not exceeding one hundred rupees, which shall be recoverable as an arrear of jámá.

[1] Vol. IV of this Code.

PART III.

SURVEY AND SETTLEMENT.

Settlement-records.

Bom. Act V of 1879.

Preparation of settlement-register of khoti villages.

16. Whenever a survey-settlement of the land-revenue of any village to which this Act extends is made or revised under the provisions of Chapter VIII of the [1]Bombay Land-revenue Code, 1879, the settlement-register prepared under section 108 of the said Code shall show the area and assessment of each survey-number and also whether such survey-number is held by a privileged occupant or not.

If a survey-number is held by one or more privileged occupants, the said register shall further specify the tenure on which such number is held, the name of the registered occupant thereof, and, in the case of a survey-number held by an occupancy-tenant, whether his interest therein is transferable otherwise than by inheritance or not.

Survey-numbers which are not held by privileged occupants shall be entered in the said register in the name of the khot, or, if a partition of the khotki has taken place, of the co-sharers to whose shares they respectively belong.

The said register shall also contain a list of all the co-sharers of the khotki, if the village be not held by one khot in his own sole right, and shall specify the extent of each such co-sharer's interest in the khotki.

Other records to show privileged occupan ts' rents;

and, when the khotki is undivided, the co-sharers' respective rights;

[2] 17. The other records prepared under the said section shall specify—

(*a*) the description and amount of rent, if any, payable to the khot by each privileged occupant according to the provisions of section 33; and

(*b*) if the khotki is undivided,—

(*i*) the survey-numbers in the possession of each co-sharer and the rent payable by such co-sharer on account of the same; and

(*ii*) the terms and particulars of any written agreement which the co-sharers, or any of them, have entered into, or may at the time of the framing of the said record enter into, determining their respective responsibility; and

(*iii*) the order of rotation in which the said co-sharers agree in writing,

[1] *Supra*, p. 631.

[2] Sections 17 to 22, both inclusive, were substituted for the original sections 17 to 22, both inclusive, by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 4, Vol. IV of this Code.

if they do so agree, to take the management of the village under the provisions of section 27 ; or

or when the khotki is divided, each share treated separately.

(*c*) if a partition has been effected and the co-sharers of the khotkí hold their respective shares in severalty,—

(*i*) the extent and limits of each such separate share ; and

(*ii*) the same particulars in respect of the several sub-sharers, if any, of each such share as are required by clause (*b*) to be given concerning all the co-sharers when a khotkí is undivided.

Custody and Amendment of Records: Determination of Disputes.

Collector to keep records after survey-settlement completed. Power of Recording-officer to amend records with written consent of parties;

[1] **18.** (*1*) When the survey settlement of any village to which this Act extends is completed, the settlement-register and other records thereof shall be kept by the Collector.

(*2*) So long as the settlement-register and other records are in the charge of the Survey-officer, the said officer, and afterwards the Collector or any other officer whom the Governor in Council from time to time empowers in this behalf, may, in the cases specified in sub-section (*3*), but not otherwise save with the consent of the parties affected thereby given in writing before the Recording-officer, at any time amend, or cause to be amended, any entry in such register or records, whether by addition thereto, insertion therein, cancellation or other alteration thereof, as may be required ; and unless and until so amended, every entry made shall, as long as the survey-settlement for which it was made remains in force, continue to be applicable to the land referred to.

(*3*) The cases referred to in sub-section (*2*) are the following, namely :—

and in certain other cases.

(*a*) any clerical error, or any error which all the parties affected thereby admit to have been made in the same, may be corrected ;

(*b*) any entry which the Recording-officer is satisfied has been caused by mistake or obtained by means of fraud, misrepresentation or personation, or by other means amounting to an offence under the [2] Indian Penal Code, may be cancelled, and such other entry (if any) substituted therefor as the Recording-officer shall determine ; XLV of 1860.

(*c*) any entry which is rendered inapplicable or incorrect by any change of circumstances or transfer of rights or interests relating thereto may be cancelled or corrected, as the Recording-officer may deem fit ;

[1] *See* second footnote on p. 784, *supra*.
[2] *See* the reprint of the Code as modified up to 1st April 1903.

(*d*) an entry of the description and amount of the rent payable by an occupancy-tenant may be inserted or altered in accordance with any of the provisions of rules IV and V under clause (*c*) of section 33 ; and

(*e*) subject to the provisions of section 20, any entry in respect of which the parties affected thereby may have obtained *inter se* a final decree of a Court of competent jurisdiction under section 21, shall be amended in accordance therewith, on an application, accompanied by a certified copy of such decree, being duly made to the Recording-officer for that purpose.

Disputes to be determined by Recording-officer.

[1]19. (*1*) If it appears to the Recording-officer that there exists any dispute as to any matter which he is bound to record, or as to any amendment proposed to be made under section 18, he may, either on the application of any of the disputant parties, or of his own motion, investigate and decide such dispute, and frame or amend the settlement-register or other record accordingly.

Notice and opportunity of being heard to be given to parties.

(*2*). No such decision and no amendment of any entry in the settlement register or other records shall be made until after due notice to the parties affected thereby, and without giving them an opportunity of being heard in respect thereto :

Proviso.

Provided that no such decision or amendment of an entry shall be deemed invalid merely for want of such notice or opportunity as aforesaid.

Remedy of party affected to whom no such notice or opportunity given.

(*3*) But any person affected by any such decision or amendment, to whom such notice or opportunity as aforesaid has not been given, may apply to the Recording-officer to have such decision or amendment cancelled or altered, as the circumstances of the case may require, and, subject to the provisions of sub-section (*2*), the Recording-officer shall re-investigate the matter and may, if he thinks fit, cancel or alter such decision or amendment accordingly.

Recording-officer's decision final in certain matters,

[1]20. (*1*) Subject to such orders as may be passed on appeal under sub-section (*2*) and to the provisions of sub-section (*3*), every entry in the settlement-register or other records made by the Recording-officer under section 16, 17 or 18, and purporting to record—

(*a*) the fact that the interest of any occupancy-tenant is or is not transferable otherwise than by inheritance, or

(*b*) the liability of each privileged occupant to pay rent of the description and amount entered,

shall, subject to the provisions of section 18, be conclusive and final evidence of the fact or liability so recorded.

[1] *See* second footnote on p. 781, *supra*.

subject to appeal to Governor in Council.

(*2*) Any person aggrieved by any such entry may, within one year of the making of the entry, appeal to the Governor in Council to have the entry altered, and the entry shall be altered if the orders passed on the appeal so direct, and the entry so altered in accordance with such orders shall be conclusive and final evidence in the manner and to the extent specified in sub-section (*1*).

Saving of pending civil proceedings.

(*3*) Nothing in this section shall affect proceedings pending in any Civil Court at the time when this section comes into force.

Recording-officer's decision when not final to be set aside only by a decree of Court. Proviso in restraint of suits.

[1] **21.** In any other matter the decision of the said Recording-officer shall not be open to appeal or revision, and shall be binding upon all the parties affected thereby until reversed or modified by a final decree of a competent Court:

Provided that—

(*a*) no person shall be permitted in any Civil Court as a defendant or otherwise, to plead, whether directly or indirectly, that such decision or entry is erroneous or is not binding upon him, if such person is, at the date of the institution of the suit in which the question arises, debarred by the law of limitation for the time being in force from instituting a suit for, or with a view to, the reversal or modification of such decision or entry; and

(*b*) no fresh cause of action shall accrue in respect of

(*i*) a decision or entry made for the purpose of, or in the course of a revised survey-settlement, or

(*ii*) an amendment of an entry made under any of the provisions of section 18,

which makes no alteration affecting the substance of the previous decision or entry relating to the same subject-matter.

Bar of suits against Government or Government officers.

[1] **22.** No suit shall lie against Government or against any officer of Government to set aside any decision or order of a Survey-officer or other Recording-officer under this Part.

PART IV.

ADMINISTRATION OF SURVEY-SETTLEMENTS MADE UNDER THIS ACT.

Provisions of this Part when to apply.

23. The provisions of this Part shall not apply to any village to which this Act extends until such time as the Governor in Council first after the passing of this Act sanctions a survey-settlement or a revised survey-settlement of such village and declares the assessments settled thereunder fixed

[1] *See* second footnote on p. 781, *supra*.

for a period of years, in accordance with section 102 of the [1] Bombay Land-revenue Code, 1879.

Bom. Act V of 1879.

Until such time, the rights and responsibilities of all parties so far as regards the matters treated of in this Part shall continue to be such as they would be if this Part had not been enacted.

Khots' Jámá.

Jámá how to be calculated.

24. The jámá payable to Government by the khot shall be the aggregate of the survey-assessments of the lands of the village minus such percentage of deduction, if any, as Government may in each case direct.

Amount to be fixed for certain periods.

The amount of the said jámá shall be from time to time fixed for the same period for which the survey-assessments are fixed.

Managing Khots.

Abolition of khots' kabuláyats.

25. The annual kabuláyats hitherto executed by khots shall no longer be required from them :

Provided that nothing herein contained shall be deemed to affect the liability of khots to perform any condition of their tenure, or to do any act which they are now bound to perform or to do, or their obligation to refrain from doing anything which they are now bound not to do.

Appointment of "managing khot".

26. When a village is held by two or more co-sharers jointly, the said sharers shall be jointly and severally responsible for the jámá, but one of their number shall be nominated every year to receive the inferior holders' rents, to pay the Government dues, and generally to perform all acts required by this Act or by any other law or rule having the force of law, to be performed by the khot.

The sharer so nominated shall be called "the managing khot" and shall for all the purposes of the [1] Bombay Land-revenue Code, 1879, be deemed to be the registered occupant of all survey-numbers in the village not held by privileged occupants.

Bom. Act V of 1879.

Managing khot how to be nominated.

27. If the co-sharers have, at the time of the framing of the survey-settlement records or at any subsequent period, agreed in writing as to the order of rotation, the nomination of the managing khot shall be made by the Collector in the order so agreed upon.

In the absence of any such agreement, [2][or if the sharer whose turn

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[1] *Supra*, p. 631.

[2] These words were inserted by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 5, cl.(*a*), Vol. IV of this Code.

it is to be nominated is for any reason unable to serve as managing khot, and fails to delegate his duties and powers under section 31A within such time as may be prescribed by the Collector in this behalf,] the co-sharers shall be called upon to nominate one of their number year by year, [1][or for the year, as the case may be,] and in the event of their failing so to do within such time as may be prescribed by the Collector in this behalf, or if they are not unanimous as to the nomination, the Collector shall either select the managing khot for the year, or cause the village to be attached and taken under the management of himself or any agent whom he appoints for that purpose in the manner provided in section 144 of the [2]Bombay Land-revenue Code, 1879. Bom. Act V of 1879.

Collector's nomination or selection not to be disputed.

28. [3] [The Collector's nomination or selection under section 27 shall be made by a written order, which shall not be open to appeal, and no suit shall lie against Government or against any officer of Government in respect of any such nomination or selection.]

But suits in respect to the right of management not barred amongst the khots themselves.

But it shall be lawful for any of the co-sharers at any time to sue for a decree *inter se* to declare which of them is entitled to the management, or the order in which they should respectively have the management, if more than one of them be entitled to the same; and from the commencement of the revenue year next after an application (accompanied by a certified copy of any such decree) is duly made to him for the purpose, the Collector shall nominate the managing khot in accordance with such decree.

Managing khot's certificate.

29. * * * * * * [4] The mámlatdár shall furnish every managing khot [5] [nominated or selected under section 27] with a certificate under his hand and seal to the effect that the holder thereof is the recognized managing khot for the year to which such certificate relates, and a certificate so signed and sealed shall be conclusive evidence of the right of the khot therein named to manage the village to which it relates for the year therein specified.

[1] These words were inserted by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 5, cl. (*b*), Vol. IV of this Code.

[2] *Supra*, p. 631.

[3] This paragraph was substituted by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 6, Vol. IV of this Code.

The original paragraph was as follows:—

"A managing khot nominated by the Collector under the last preceding section shall continue in that capacity throughout the year for which he is so appointed, and no suit shall lie against the Collector, or against Government, or any Government officer in respect of such nomination".

The words "Except as is hereinafter provided" were repealed by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 7, Vol. IV of this Code.

[5] These words were inserted by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904) s. 7, Vol. IV of this Code.

(*Part IV.—Administration of Survey-settlements made under this Act. Secs. 30-33.*)

Managing khot when there are no co-sharers.

30. When a village is held by a khot in his own sole right, he shall be deemed to be the managing khot thereof for all the purposes of this Act, and it shall not be necessary to furnish him with any such certificate as is described in the last preceding section.

Exclusive power of managing khot.

31. When a managing khot has been duly appointed under any of the foregoing provisions, he alone shall be entitled to assistance for the recovery of rent from privileged occupants under sections 86 and 87 of the [1]Bombay Land-revenue Code, 1879.

Bom. Act V of 1879.

Delegation of duties and powers by managing khot.

[2] 31 A. It shall be lawful for the managing khot to delegate, subject to the approval of the Collector, the performance and exercise of all duties and powers, imposed or conferred upon him either by section 15 or by section 31, to any person duly empowered in writing by him in this behalf; and the person so appointed shall, in respect of the performance of the duties prescribed in section 15, be subject to all the liabilities to which the khot is subject under the said section.

Separated Sharers.

Separated sharers to be severally responsible for their respective shares.

32. When the khots have divided their khotkí or a partition thereof has been effected by the Civil Court, or otherwise, and the co-sharers hold their respective shares in severalty, the Collector shall determine the amount of jámá payable in respect of each separate share, and the holders of the said shares shall be held severally liable for the portions of the jámá so fixed on their respective shares, and all the provisions of this Act shall apply to them respectively as if they were independent holders of entire khotkís.

Privileged Occupants' Rents.

Nature and amount of rent payable by privileged occupants.

33. The rent payable to the khot by privileged occupants shall be as follows, namely:—

(*a*) by a dhárekari: the survey-assessment of his land;

(*b*) by a quasi-dhárekari: the survey-assessment of his land and in addition thereto the amounts of grain or money respectively set forth in the schedule; [3] * * *

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1 *Supra*, p. 631.

2 Section 31A was inserted by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), *s.* 8, Vol. IV of this Code.

3 The words "hereto annexed" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[1](*c*) by any occupancy-tenant: in each case according to the terms of the entry in the survey-record made in respect thereof, and for the time being applicable thereto, under the following rules :—

Entry to show form of payment.

Rule I. Every such entry shall show whether any rent is payable and, if so, whether it is payable as—

(*a*) an amount fixed: that is to say, a certain amount, irrespective of the crop, payable in money or kind, or both ; or

(*b*) a crop-share: that is to say, a fixed proportion of the gross annual produce of the land, and of the produce of fruit-trees (if any).

How and what entries are to be entered as determined by agreement.

Rule II. (*1*) Amounts fixed shall be entered as determined by agreement of the parties—

(*a*) at the time of framing the survey-record, if the Recording-officer is satisfied that they have then or at any time previous agreed that such amounts shall be the rent payable during any period subsequent to the introduction of the survey ; or

(*b*) at any other time, on the parties appearing in person or by duly authorized agent before the Recording-officer and consenting to such entry.

No crop-share to be entered as determined by agreement.

(*2*) No crop-share shall at any time be entered as determined by agreement.

Meaning of the word 'parties.'

(*3*) In this rule the word 'parties' means, with reference to an agreement, the tenant and the person who at the time of the agreement is the managing khot :

How far, in an agreement with a tenant, a managing khot can bind a sharer or sharers in a khotki.

Provided that if any sharer in a khotki whose interest, or any number of such sharers the aggregate of whose interests, exceeds three-eighths of the entire khotki, shall declare in writing delivered to the Recording-officer at the time of the nomination or appointment of a managing khot, or at any time during the tenure of his office by such managing khot, that the managing khot shall have no power to bind such sharer or sharers by an agreement

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[1] Cl. (*c*) was substituted by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 3, Vol. IV of this Code.

The original clause was as follows :—

"(*c*) by an occupancy-tenant: such fixed amount, whether in money or in kind, as may have been agreed upon or as may at the time of the framing of the survey-record, or at any subsequent period, be agreed upon between the khot and the said tenant;

or on the expiry of the term for which any such agreement shall have been, or shall be made, or if no such agreement have been, or be made, such fixed share of the gross annual produce of the said tenant's land, not exceeding one-half in the case of rice-land, nor one-third in the case of warkas-land, and such share, if any, of the produce of the fruit-trees on the said tenant's land, as the survey-officer who frames the survey-record, shall determine to be the customary amount hitherto paid by occupancy tenants in the village in which the said land is situate."

(*Part IV.—Administration of Survey-settlements made under this Act. Sec. 33*—contd.)

with any tenant specified in such writing, no agreement entered into after the delivery of such declaration, between such managing khot and such tenant, shall be binding on such sharer or sharers, unless—

(*a*) such sharer or sharers shall appear before the Recording-officer and assent thereto, or

(*b*) written notice of an intention to execute such an agreement has been sent at the cost of such managing khot or tenant through the Recording-officer by post in a registered cover addressed to such sharer or sharers, and such sharer or sharers shall, for a period of not less than three months after such notice has been sent as aforesaid, fail to appear before the Recording-officer and object to such agreement.

How entries other than those of amounts fixed by agreement are to be determined.

Rule III. If at the framing of the survey-record there appears to be no amount fixed by agreement of the parties, the Recording-officer shall,

(*a*) if he finds that a crop-share has theretofore been paid in accordance with the general custom of the village in respect of similar lands,

enter such crop-share ; or,

(*b*) if he finds in any case that the rent theretofore paid has been different in description or amount from that payable under the general custom of the village in respect of similar land therein, or that no such general custom is ascertainable,

enter the rent theretofore paid in such case, or, if such rent has not been uniform, the average of the rent paid or payable for such land during the twelve years last preceding his enquiry ; or,

(*c*) if he finds that a commuted-value of a crop-share has become payable under sub-rule (*1*) of rule V,

enter the commuted-value payable under sub-rule (*3*) of the same rule :

Limits of crop-shares.

Provided that no crop-share shall in any case be entered exceeding in the case of rice land one-half and in the case of warkas land one-third.

Power to make or alter entries in case of omission of entry at

Rule IV. (*1*) If in any case—

(*a*) no entry has been made at the introduction of a survey-settlement, or

(*b*) the entry made has, by reason of a decree of a competent Court or of any change in the tenant's mode of cultivation or otherwise,

settlement or on account of entry ceasing to be applicable;

ceased to be applicable, wholly or in part, to the land in respect of which it was made,

and no amount fixed by agreement has been subsequently entered,

the Recording-officer may determine and enter, or alter the entry already made in respect of, the rent payable, as if he were acting under rule III.

or when tenant holding on special conditions of service ceases to render such service;

(*2*) If any land is held wholly or partly in consideration of services to be rendered by the tenant to the khot or to the village community, or for the benefit of any class thereof, the Recording-officer shall, upon proof that such services are no longer rendered, determine and enter the rent which would have been leviable, but for such total or partial exemption.

or when amount fixed is no equal to sum of survey-assessment and local fund cess together with a percentage thereon,

(*3*) If in respect of any land, other than land which is entered as held rent-free, the amount fixed, or in the case of crop-shares the commuted-value which has been, or might be, under rule V entered as payable, is less than the total sum representing the survey-assessment and local fund cess recoverable from the khot in respect thereof, together with twenty-five per centum of such assessment and local fund cess (hereinafter called "the percentage"), the Recording-officer shall, on the application of either of the parties, raise such amount fixed or commuted-value to such total sum or the equivalent thereof in kind, and shall alter the entry accordingly:

subject to proportionate reduction, if Government defrays whole or part of the percentage;

Provided that the Governor in Council may, during the period of the survey-settlement in force at the commencement of the [1] Khoti Settlement Act Amendment Act, 1904, by general or special orders in this behalf, direct that the whole or part of the percentage shall during the remainder of such period be defrayed by Government; and so long as such defrayal continues, the rent payable by the tenant to the khot under the provisions of this sub-rule shall be reduced to the extent of the amount so defrayed, and a note shall be inserted by the Recording-officer in the altered entry accordingly. Bom. Act III of 1904.

or when the assessment has been remitted or reduced on account of injury to the land.

(*4*) If the survey-assessment fixed on any survey-number has been reduced or struck off on account of diluvion, deterioration by floods or other cause beyond the control of the occupancy-tenant, the Recording-officer shall reduce the total amount fixed, or in the case of crop-shares the total commuted-value (if any), which

[1] Vol. IV of this Code.

has been entered as payable for the portion of that number in such tenant's occupancy, by an amount bearing to that total amount or commuted-value the same proportion as the amount of assessment remitted or struck off bears to the total assessment for the entire area in his occupancy, and shall make an entry in the record specifying—

(*a*) the reduced amount, and

(*b*) the limit of time for which it is without further entry to hold good.

When entry of commuted value of crop share may be made, and effect of such entry.

Rule V. (*1*) On an application made on or before the first day of May in any year by any tenant, whose rent is payable wholly or partly as a crop-share, the Recording-officer shall fix and enter the commuted-value of the whole of such crop-share, and such commuted-value shall thenceforth, subject to the provisions of sub-rule (*3*), be payable, with effect from the commencement of the next ensuing revenue-year, by the tenant in lieu of the whole crop-share hitherto payable by him.

Meaning of 'commuted-value' and how fixed.

(*2*) In this rule 'commuted-value' means the average money-value of the produce payable, and the Recording-officer shall, in the absence of any satisfactory evidence to the contrary, take, as a standard for estimating such money-value, a half crop-share as equivalent to three multiples of the survey-assessment, fixed on the land, a third crop-share as equivalent to two multiples of such assessment, and any other crop-share as equivalent to a proportional multiple of such assessment:

Proviso as to warkas land used for ráb manure.

Provided that the commuted-value of the produce payable on any warkas land entered in the records existing on the day when this rule comes into operation, as land actually used for the purpose of ráb manure in connection with rice cultivation, shall not exceed an amount equal to the survey-assessment on such land.

Commuted-value subject to revision at a revised survey-settlement.

(*3*) Where a commuted-value has become payable under sub-rule (*1*), the Recording-officer shall at a revised survey-settlement revise the commuted-value in accordance with the provisions of sub-rule (2) with reference to the revised survey-assessment fixed on the land, but shall not alter the description of the rent so payable.

Privileged occupants' rents how and when to be paid.

34. The rents due by privileged occupants shall be payable on such dates, in such instalments, and subject to such rules not inconsistent with the provisions of this Act, as may from time to time be prescribed in this behalf by the Governor in Council.

Cesses, etc.

Abolition of all cesses, etc.

35. It shall not be lawful for any khot to levy *phaski, veth, nangarveth, wartala,* or any other cess, rate, tax or service of any description or denomination whatsoever, from any privileged occupant other than the rent lawfully leviable under the provisions of this Act.

Local Fund Cess.

Khot's liability for local fund cess.

36. Local fund cess at such rate as shall from time to time be fixed by Government under section 6 of the [1]Bombay Local Funds Act, 1869, shall be leviable by Government from the khot on every rupee of his jámá. Bom. Act III of 1869.

Dhárekaris and quasi-dhárekaris to what extent liable for the cess.

The khot shall be entitled to assistance under sections 86 and 87 of the [2]Bombay Land-revenue Code, 1879, for recovery of the said cess at the said rate from dhárekaris and quasi-dhárekaris on every rupee of the survey-assessment of the lands in their respective holdings. Bom. Act V of 1879.

Other inferior holders not liable for the cess.

Inferior holders of khotí lands shall not be liable to local fund cess, anything contained in section 8 of the [1]Bombay Local Funds Act, 1869, to the contrary notwithstanding. Bom. Act III of 1869.

PART V.

MISCELLANEOUS.

Existing survey-settlements confirmed.

37. Existing survey-settlements of the land-revenue of any village to which this Act extends, made, approved and confirmed under the authority of the Governor in Council, shall be deemed to have been lawfully made, and, except as is hereinafter otherwise provided, shall continue in force for the terms for which they have been respectively guaranteed, subject to all the provisions of law which would be applicable thereto if this Act had not been passed, and anything in this Act which is inconsistent with any of the said provisions shall be deemed not to apply to such settlements.

New settlements may be substituted for existing settlements.

38. Upon the expiry of the period of any such guarantee, or, if it shall appear to the Governor in Council that a majority of the land-holders affected by any such guarantee so desire, at any time previous to the expiry of the said period (such time being fixed by the Governor in Council), a new survey-settlement shall be introduced into the village in which such guarantee was in force, and the provisions of this Act shall thenceforward apply to the said settlement, anything in any other law to the contrary notwithstanding.

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[1] *Supra*, p. 492.
[2] *Supra*, p. 631.

Bombay Land-revenue Code, 1879, how far inapplicable to khoti villages.

39. Nothing in sections 68, 72, 73, 74, 99, clause (*b*), 104, paragraph 2, [1][109, 110], 112, 150, clause (*b*), and 153 of the [2]Bombay Land-revenue Code, 1879, shall be deemed to apply to any village to which this Act extends.

Bom. Act V of 1879.

The provisions of the said Code when applied to any such village shall be subject to the following modifications, namely:—

(*a*) when a survey-settlement is being introduced under section 103, the rent payable by each privileged occupant, and the amount of jámá payable by the khot shall be announced in lieu of the assessment fixed on each survey-number;

(*b*) sections 118, 119 and 123 shall be read and understood as if the word "khots" were substituted for the words "patels and other village-officers", and the words "village-officers" and the words "village-officers and servants", wherever they occur;

(*c*) the khot shall for the purposes of section 136 be deemed to be the person primarily responsible to Government for the jámá of his village;

(*d*) the word "alienated" in clause (*f*) of section 150 shall be deemed to be omitted; and,

(*e*) if such village is under attachment at the date of this Act coming into force, applications may be made under section 162 for the restoration thereof at any time within twelve years from the first day of August next after such date.

Rules to be made by Governor in Council.

40. The Governor in Council may, by notification in the *Bombay Government Gazette*, from time to time frame, and from time to time vary or rescind,[3] rules not inconsistent with the provisions of this Act—

(*a*) for the inspection and appraisement of crops when the rent payable to a khot consists of a share of the produce of a privileged occupant's land;

(*b*) for determining what land is dhára land;

(*c*) for allotting to each privileged occupant, when the exact limits of his warkas holding are not ascertainable, such portion of the entire warkas land of the village or such rights or privileges in respect of any warkas land, or both a portion of the entire warkas

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[1] These figures were inserted by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 10, Vol. IV of this Code.

[2] *Supra*, p. 631.

[3] For rules, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. 575 and 595 to 597.

land and such rights or privileges in respect of any other such land as may be fair and reasonable;

(*d*) determining to what extent, if any, any[1] rule, or order made under section 214 of the [2] Bombay Land-revenue Code, 1879, shall be applicable to villages to which this Act extends; Bom. Act V of 1879.

(*e*) for the furtherance of the objects of this Act in matters not expressly provided for therein;

(*f*) generally for the guidance of all persons in matters connected with the enforcement of this Act.

Government may constitute uncultivated land a reserved forest.

41. And whereas it is necessary in the general interests of the people to enable Government to promote the extension of forests in villages held by khots; it is hereby enacted that Government may at any time constitute any uncultivated land in any village to which this Act extends, or may hereafter be extended, a reserved forest[3] [in accordance with the procedure enacted in Chapter II of the [4] Indian Forest Act, 1878]. But nothing in this section contained shall derogate from any rights conferred by any sanad or other grant made by any lawful authority. VII of 1878.

Explanation.—For the purposes of this section "uncultivated land" means land which has not been tilled for a period of twenty years next before the 1st June, 1879, or the date of the order constituting such reserved forest.

Reserved forest constituted under last preceding section to be subject to provisions of Indian Forest Act.

42. Every reserved forest constituted under the last preceding section shall be subject to all the provisions of the [4]Indian Forest Act, 1878, and of any other law relating to forests for the time being in force: provided— VII of 1878.

(*1*) that, upon the condition of duly performing such service connected with such forest as shall from time to time be prescribed by Government, the khot shall be entitled to a share of one-third of the net profits derived by Government from such forest after deducting the cost of management;

(*2*) that, in the event of the service prescribed by Government as aforesaid not being duly performed by the khot, the provisions of section 80 of the [4] Indian Forest Act, 1878, shall be applicable. VII of 1878.

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[1] For rules under this clause, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 597.

[2] *Supra*, p. 631.

[3] These words were inserted by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 11, Vol. IV of this Code, with retrospective effect from the date of the commencement of this Act.

[4] *See* the reprint of the Act as modified up to 1st December, 1903.

SCHEDULE.

(*See section 3, clause 7, and section 33.*)

Denomination of quasi-dhárekaris.	Excess amount of rent payable for every Rupee and proportionately for every fraction of a Rupee of the Survey-Assessment in respect of		
	Rice lands.	Warkas lands.	Bágáyat or Rábi lands.
Daspatkari	2 annas . . .	2 annas	2 annas.
Dupatkari	½ maund of rice in the husk.	5¼ pailis of grain (half *nachani* and half *vari*).	8 annas.
Didpatkari or Didiwala	3 pailis of rice in the husk.	2 pailis of grain (half *nachani* and half *vari*).	3 annas.
Paune dupatkari .	6 pailis of rice in the husk.	4 pailis of grain (half *nachani* and half *vari*).	6 annas.

BOMBAY ACT No. I of 1881.[1]

[*9th April, 1881.*]

Bom. VI of 1879.

An Act to amend the Bombay Port Trust Act, 1879.

[Note.—The amendments made by this Act are incorporated in Bom. Act VI of 1879, *supra*, p. 710.]

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1881, Pt. V., p. 7; and for Proceedings in Council, *see ibid*, p. 19.